SUMMARY OF OPENING STATEMENT OF
FCC COMMISSIONER MICHAEL K. POWELL
BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS
OF THE SENATE COMMITTEE ON
COMMERCE, SCIENCE AND TRANSPORTATION

253 Russell Senate Office Building
Washington, D.C.
March 25, 1998

I am grateful for this opportunity to share my views on promoting telecommunications competition. The Telecommunications Act of 1996 mandates that we remove regulatory restraints and ensure that the Bell Operating Companies have satisfied local market-opening requirements before obtaining authority to provide long distance service within their regions. This is one of the most important tasks that Congress delegated to the Commission in the Telecommunications Act of 1996.

I share the disappointment expressed by some on the Subcommittee and elsewhere that there has not yet been a successful application for long distance entry. I also accept that the Commission bears some responsibility for the fact that no Bell Operating Company has been able to obtain long distance authority under sections 271 and 272 of the Act. Our approach, until recently, has not yielded the degree of clarity in our standards demanded by both incumbents and new entrants alike. Only by offering clear and complete guidance to the Bell Companies about what they need to do to satisfy the statute will we bring the benefits of the Act to American consumers in the form of more local and long distance competition.

Thus, I am committed to making the collaborative process for implementing sections 271 and 272, instituted under Chairman Kennard's leadership, a success. Under this approach, the staff of the Common Carrier Bureau works continuously on these issues, rather than only when an application is filed. I have supported this approach, having seen the limits of the more adjudicative approach while serving at both the Justice Department and at the Commission. Indeed, the importance and urgency of section 271 issues prompted me to outline my preference for more collaboration in the section 271 process in a White Paper I released back in January, a copy of which is attached to my prepared testimony. The purpose of this paper was to reinvigorate the section 271 process, in which I had observed companies losing faith. I also hoped to encourage a redirection of our efforts to achieve success in the section 271 process, or, as Commissioner Ness has termed it, "getting to yes." The goal of the collaborative approach is to solve as many of the problems of checklist compliance for a given state as possible, well before an application for that state is filed.

I fully recognize that the new process is not perfect and that we have much more

to do. Indeed, there may come a time when we may need to muster the courage to revise further the section 271 process if we find an even better way to reach our collective aim: the successful approval of Bell Company applications consistent with the requirements Congress has imposed. I firmly believe, however, that if we continue along this path of collaboration, we will be better positioned than ever to provide guidance on all of the relevant statutory requirements when the Commission issues its next section 271 order. I am thus deeply committed to giving the Common Carrier Bureau, my fellow State and federal regulators and the industry whatever support I can to make the collaborative process, which I believe has begun to work, a success.

In addition, I believe devoutly that, in order to bring the deregulatory promise of the Act to fruition, all of us -- policymakers and industry alike -- must have more faith in free markets. Trusting the market means that, in interpreting section 271 and other provisions of the Act, we must not allow the perfect to be the enemy of the good. While I believe the Commission should continue to apply rigorously the local market-opening requirements of section 271's competitive checklist, I also believe we must realize that, even in the context of the collaborative process, policymakers and industry representatives will not be able to anticipate and resolve ahead of time every possible issue that may arise as a Bell Company works with new entrants to carry out its regulatory obligations. Thus, I believe that after taking pains to prevent the important anti-competitive abuses that we reasonably can foresee, we must resist the temptation to speculate too much on additional abuses, as such speculation may paralyze us in our efforts to release the tethers of regulation and let competition roam free.